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COMMITTEE ON THE RIGHTS OF THE CHILD

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SUMMARY RECORD OF THE 12th MEETING

Held at the Palais des Nations, Geneva,
on Tuesday, 8 October 1991, at 10 a.m.

Chairman: Mrs. BADRAN

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The meeting was called to order at 10.10 a.m.

MATTERS RELATING TO THE COMMITTEE'S METHODS OF WORK IN RESPECT OF THE CONSIDERATION OF REPORTS TO BE SUBMITTED BY STATES PARTIES IN ACCORDANCE WITH ARTICLE 44 OF THE CONVENTION (agenda item 7) (continued) (CRC/C/L.2)

The CHAIRMAN invited the Committee to continue its consideration of document CRC/C/L.2.

Paragraph 10

Mr. HAMMARBERG said that the statistical data referred to in paragraph 10 was undoubtedly very important. However, it was difficult for States parties to provide all the data the Committee might have in mind. In some countries, no statistics were available for certain groups and others, such as his own, avoided keeping certain statistics for fear of discrimination. The text should also make a clearer distinction between children newly placed in foster care and children still in foster care at a given moment.

Mr. SHAW (World Food Programme) urged the Committee to use statistical data to make a more incisive analysis of causality. The large amount of work done in the United Nations and elsewhere concerning the poor had shown that they were not a homogeneous group. There was a great difference in lifestyle between small farmers, the landless, households headed by single women, the urban poor, etc. The Committee should begin a process of helping Governments see children in their total economic and social setting. Two helpful documents in that respect were the UNDP Human Development Report and the document being prepared by the International Fund for Agricultural Development on the State of World Rural Poverty, both of which contained some very interesting statistics. In addition, the gender issue was extremely important and the Committee should aim at understanding the causes of the marked differences between data for boys and girls.

Mrs. EUFEMIO said she wondered whether the statistics referred to in paragraph 10 should not be included in studies rather than in reports by States parties.

The CHAIRMAN replied that information contained in reports by States parties was of a preliminary nature. It highlighted certain correlations between factors and helped the State party concerned in its planning for different sub-groups within the child population. For a deeper analysis, however, reports could obviously not furnish all the information required.

Mrs. EUFEMIO said she believed that statistical data should be provided to the Committee annually.

Mgr. BAMBAREN GASTELUMENDI suggested that paragraph 10 should be placed at the end of the guidelines, following the paragraphs referring to specific articles of the Convention.

Mrs. SANTOS PAIS noted that everyone agreed that some statistical data was necessary; the question Mgr. Bambaren Gastelumendi had raised was one of methodology. Should statistics be presented chapter by chapter or in a separate, general section? Personally, she had no strong views either way, but the chapter-by-chapter method might be easier for States.

Mgr. BAMBAREN GASTELUMENDI said that, in his view, it was easier for the reader if statistics were contained in an appendix to reports by States parties. However, it might better be left to the drafting group to choose the appropriate method for each section of the guidelines.

Mrs. EUFEMIO suggested that a paragraph 5 should be added to the introduction referring to the inclusion of statistical data in appendices.

Mr. MOMBESHORA noted that, in the statistics for the different groups of children, the total number of children in each age group should always be provided.

Mr. HAMMARBERG said that the Committee's main concern was that the statistics it requested should be furnished. Exactly how that was to be done could be decided by the drafting group in consultation with the secretariat.

Mr. KOLOSOV noted that the important criterion of rural children, as opposed to urban children, had been omitted.

Mgr. BAMBAREN GASTELUMENDI suggested that paragraph 10 should be amended to take account of the situation of the growing number of street children.

Mrs. SANTOS PAIS said that, in her opinion, the wording of paragraph 10 should be left open to include other groups of children in distress.

Mr. KOLOSOV noted that paragraphs 9 and 10 dealt with the right of children to a normal family life. Other problems affecting children were covered in paragraph 13. In his view, that approach should be maintained.

Mr. SHAW (World Food Programme) suggested that the Committee might wish to defer its consideration of paragraph 10 until it had held its discussion with other United Nations bodies and with non-governmental organizations later in the week. A great deal of data was being generated by the other bodies and the Committee might take stock of that data and build on it. In fact, a special session on data alone might be necessary, for it was instrumental in the Committee's analysis of causality that would lead to solutions. By analysing trends and establishing a profile of children in each country, the Committee would be better able to understand major problems.

The CHAIRMAN suggested that a phrase such as "and any other group of children under difficult circumstances" might be added to the end of paragraph 10. If she heard no objection, she would take it that the Committee agreed to defer its discussion of paragraph 10 pending its dialogue with United Nations bodies and non-governmental organizations.

It was so decided.

Paragraph 11

Mrs. SANTOS PAIS said that, as non-discrimination was a basic principle which applied to the Convention as a whole, she would prefer it to be referred to only in the introductory part of the guidelines, not in paragraphs 11 or 12. The question of disabled children should be included in paragraph 11, which should recognize the need to ensure dignity, self-reliance and active participation by the community. Article 18, paragraph 3, and article 39 of the Convention should also be taken into account in that section of the guidelines.

Mr. SHAW (World Food Programme) said that article 6 of the Convention should be a basic premise of paragraph 11, which placed emphasis on the responsibilities of States parties through the Government and public sectors. Those sectors certainly had a role to play, but it should be recognized that, in most developing countries, the household and the community were vitally important to the development process. Poor households and communities had traditionally developed their own coping mechanisms, which should be understood and appreciated so that the public sector might give them fuller support.

Mr. KOLOSOV said that, notwithstanding paragraph 5 of the guidelines, paragraph 11 should request information on the activities of national non-governmental organizations dealing with child health and social welfare.

Mgr. BAMBAREN GASTELUMENDI said that, in the Spanish text, the reference to monitoring strategies and mechanisms should be made clearer.

Mrs. KLEIN (Representative of the Secretary-General) said that the intention was to encourage mechanisms by which to follow up on measures taken in respect of health and welfare.

Mrs. EUFEMIO suggested that paragraph 11 should contain a reference to article 18 of the Convention.

Mr. HAMMARBERG cautioned against mentioning the same article under different sections and against including too many cross-references, since the guidelines were intended to assist States parties in preparing their reports. He assumed that statistics were intended to be included in the reference to "relevant information".

The fact that the reports of States parties should be the result of a dialogue in which non-governmental organizations would take part must also be borne in mind, although reports were ultimately the responsibility of the States parties concerned. There should be procedures governing the question of additional information so that the Committee might be able to receive or request supplementary information from non-governmental organizations where it was considered useful.

Mrs. EUFEMIO said that, while she understood that excessive cross-referencing was to be avoided, she considered that a reference to article 18 of the Convention in paragraph 11 was important, particularly in the context of primary health care.

Mr. MOMBESHORA said that, since monitoring mechanisms for primary health care already existed, relevant information was available in that regard.

Mr. SWEPSTON (International Labour Organisation) said that an enormous amount of information might well be forthcoming on social security legislation and conventions and that the filtering of information for the Committee's consideration might therefore be envisaged.

Mr. SHAW (World Food Programme) said that each agency in the United Nations system had a wealth of information of immediate relevance to the Committee, which had to determine how to integrate such information into its work, while avoiding the pitfall of gathering data for its own sake.

Mr. MOMBESHORA said that, in the context of data collection and use, the selection of indicators was an important way of showing what efforts were being made by States parties.

Mr. SWEPSTON (International Labour Organisation) said that the concern he had expressed earlier related to the vast amount of information which the Committee was likely to receive, particularly if social security legislation was obtained directly from States parties. It might be appropriate to discuss that question during the consideration of agenda items 8 and 9.

Mrs. SANTOS PAIS said that the Committee should take account of the possibility of having analytical studies made available to it.

The CHAIRMAN said that the drafting group would revise the text of paragraph 11 in the light of the comments made during the discussion.

Paragraph 12

Mr. KOLOSOV suggested that it would be more logical to move paragraph 12 (e) on drug abuse to paragraph 11 on basic health and welfare.

Miss MASON said she agreed that the reference to drug abuse should be moved, but thought that a better place for it would be in paragraph 13 (d), in connection with the implementation of special protection measures.

Mrs. SANTOS PAIS said that the section on drug abuse did need to be transposed. Including it in the paragraph on education gave the impression that the only measures the Committee was concerned with were those involving the prevention of drug use through education, whereas it also wanted to know what was being done to combat drug trafficking, among other things. She thought that the subject of drug abuse could best be included in paragraph 8 in connection with fundamental civil rights.

The Committee still had to take a decision on whether a reference to non-discrimination should be included in a general statement or in each paragraph of the guidelines.

Mr. SWEPSTON (International Labour Organisation) proposed that paragraph 12 (a) should be amended to read: "Education, including vocational training and guidance". The purpose was to ensure that the concept of education was not given an unduly restrictive interpretation.

Mgr. BAMBAREN GASTELUMENDI, noting that article 17 of the Convention mentioned efforts to be taken by the mass media, suggested that a reference to such efforts should be incorporated in paragraph 12.

Mr. HAMMARBERG suggested that the title of paragraph 12, "Education", should be amended to cover vocational training and cultural activities as well.

In his view, non-discrimination was such an important part of the efforts required under the Convention that it should be mentioned in each individual paragraph of the guidelines.

Mrs. SANTOS PAIS said that, in broadening the title of paragraph 12, a reference to leisure should be included, for one of the Convention's most noteworthy innovations was its reference to the right of the child to play - in other words, to be simply a child.

Mr. KOLOSOV said he believed that the paragraph headings were not substantive in nature and that it was not necessary to expand them to cover all points: it was preferable to keep them short and simple.

The CHAIRMAN said that the drafting group would be requested to revise the wording of the title and of paragraph 12 (a) in the light of the comments made by the members of the Committee. It would also have to decide on an appropriate place in the draft guidelines for paragraph 12 (e) on drug abuse.

B. Implementation of special protection measures

Paragraph 13

Mr. SHAW (World Food Programme) said that his organization had a special interest in section B, but thought that it should be divided into two. One section would refer to disabled children, minorities and child labourers, and the other would deal with emergency situations that were beyond the control of States parties. The second section would thus include paragraphs 13 (a) on refugee children and 13 (g) on children in armed conflicts, as well as a number of other emergency situations.

Emergencies could be of a sudden, cataclysmic nature, such as natural disasters, or of a protracted nature, such as drought or crop failure. They could also be man-made. Sadly, of all the emergency situations now existing, man-made ones were the most prominent: his organization provided 70 per cent of all its emergency assistance to victims of man-made disasters. All those types of emergency situations would call for different measures, for they had different impacts on children.

Another important category to consider was refugee children. Children could be refugees for a limited period of time or, in cases such as those of Afghanistan, Cambodia and the Sudan, for lengthy periods. When children were born and brought up in refugee camps, their needs included not only emergency assistance, but also human development measures such as education for themselves and employment opportunities for their parents.

Another category to be considered was that of displaced children. The United Nations system had absolutely no mechanism devoted to displaced persons at present. Account also had to be taken of the sufferings of populations into whose territory displaced persons had migrated. Often, those populations had been badly off to begin with and their situation was greatly worsened by the presence of displaced persons.

The focus in the guidelines should not be exclusively on children: the health of mothers or those who cared for the children was equally important. Lastly, it should be recognized that not only States parties, but also many non-governmental and other organizations, played a vital role in ensuring the well-being of children in disaster situations.

Mrs. BELEMBAOGO said that, in paragraph 13 (f), the words "imprisoned children" should be added to the reference to "children deprived of their liberty". More and more children were being imprisoned, as opposed to being deprived of their liberty, especially in countries where the judicial system had no alternative other than incarceration for handling children in certain situations. She thought the words "child labourers" in paragraph 13 (d) were too general. It might be useful to draw a distinction between children working in the informal sector, where there was a growing tendency towards their exploitation, and those employed in the formal sector.

Mrs. SANTOS PAIS said she agreed with the proposal that section B should be divided into subsections. One might cover situations of lawful deprivation of liberty or privacy, in accordance with article 37 (b) and article 40, paragraph 2 (vii), of the Convention. Another would relate to situations in which special protection was required, for example, against the exploitation of child labour and sexual exploitation. Perhaps the reference to drug abuse could be included in that subsection as well.

A third subsection might correspond to the proposal by the representative of the World Food Programme concerning emergency situations, refugee children and armed conflicts. She would also include minorities or indigenous children because they also needed special protective measures. She would not, however, include a reference to sale, trafficking and abduction and other forms of exploitation of children, as in paragraph 13 (e), for that question should be covered in paragraphs 9 and 10 on parental or foster care and adoption.

Mr. HAMMARBERG said that the Convention did not really deal with emergency situations and made little reference to displaced children, for example. In its discussions with Governments, the Committee might be able to link certain situations. It was clear that a displaced child's rights were violated, since one of the effects of being displaced was the violation of individual rights, such as the right to education.

He also noted that, by making reference to refugee children, disabled children and exploited children, the Committee ran the risk of placing labels on various groups of children. Organizations dealing with the problems of children with a disability were concerned that the Committee should not use language that would make the handicap or disability the children's main characteristic. They were children who had a handicap or a disability. In the guidelines under consideration, the Committee was beginning to use terms

that were not actually respectful of children from that point of view. He therefore suggested that the drafting group should consider those terms and see whether it was possible to use language that would be less succinct, but more in line with the wording of the Convention. For example, with regard to refugees, article 22 of the Convention referred to "a child who is seeking refugee status".

The question of statistics constituted a particularly difficult problem in the case of children with a handicap, depending on the meaning given to the term "handicap". The same was true with regard to children who were being exploited. The Committee should be very careful in requesting statistics in that regard, since countries would tend to use different criteria in collecting the data. If the Committee wished to have Governments submit statistics, it should indicate precisely what it was seeking.

With regard to paragraph 13 (g), he said that article 39 of the Convention was not concerned only with rehabilitation after an armed conflict and that it would be preferable to refer to articles 38 and 39 in two separate provisions.

Mr. SWEPSTON (International Labour Organisation), referring to paragraph 13 (d), said he shared the view that the question of child labour should be dealt with separately and that the reference to article 33 of the Convention should be moved to another provision.

In order to avoid labelling, it might be better to use more neutral wording in paragraph 13 (d), such as "Economic activity, including the prevention of child labour".

Mgr. BAMBAREN GASTELUMENDI said he agreed with the subdivisions proposed by Mrs. Santos Pais.

He thought that it would be essential for the Committee to include a provision concerning the problem of displaced children.

With regard to paragraph 13 (d), the questions of child labour and drug trafficking should be dealt with separately.

Another problem that should be covered was the number of children who committed suicide. Consideration should also be given to the problem of children killed in the streets.

Mr. SHAW (World Food Programme) appealed to the Committee to deal with the problem of children in emergency situations. He was certain that the Committee could include such situations in its discussions with Governments.

Directly or indirectly, the Committee's work would involve an examination of the provisions of the Convention, which he hoped the Committee would review from time to time, making recommendations for its revision. The Committee did not be have to be bound by the provisions of the Convention and must also take its spirit into account.

Mr. KOLOSOV said that paragraph 13 (d) should be moved to the section on "Basic health and welfare". That would avoid the problem of labelling referred to by Mr. Hammarberg.

Mr. HAMMARBERG said that the Committee might be allowed to go somewhat beyond the framework of the Convention, but it should be careful not to undermine the authority of States parties, which might feel that some of the questions addressed to them were not linked to the Convention.

The Convention was concerned basically with the individual rights of children. The intention was that, if, as a result of an armed conflict or natural disaster, a large number of children were disabled, the situation would be analysed from the standpoint of the violation of individual rights.

In his opinion, one of the challenges facing the Committee was to establish a link between situations and individual rights. Noting that article 38 of the Convention referred to international humanitarian law, he thought that the Committee should consider to what extent the provisions of the article would also be applicable to internal conflicts and emergencies. The Committee should also ask for a study to be undertaken on the extent to which the rights embodied in the Convention were actually violated in civil conflicts and disturbances. The Committee had a duty to be more thorough in its analysis of situations. He supported the subdivisions suggested by Mrs. Santos Pais and thought that they might help to solve many problems.

Mrs. SANTOS PAIS said that the Committee should take account of the experience of various countries. Attention must also be given to the provisions of article 41 of the Convention.

The suggestions and general recommendations which the Committee would make on the basis of the reports of States parties would be of great importance for the realization of the rights of the child.

Mrs. EUFEMIO, noting that there was no specific article of the Convention on displaced children or children in emergency situations, said that the interpretation of article 6 of the Convention might be expanded so that States parties could include information on measures taken with regard to such children. Article 6 was broad enough, since it referred to the survival and development of the child.

In the Philippines, provision was made for care for children in emergency situations. For example, preference was given to the evacuation of children vis-à-vis adults.

Mgr. BAMBAREN GASTELUMENDI said that the drafting group should be requested to include a new subparagraph on the physical elimination of children for economic, social or political reasons.

The CHAIRMAN said that the drafting group would revise the text of paragraph 13 in the light of the comments made during the discussion.

The meeting rose at 1.10 p.m.